

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #6	CCRB Case #: 201408517	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/16/2014 5:14 PM	Location of Incident: § 87(2)(b)	Precinct: 41	18 Mo. SOL 2/16/2016	EO SOL 2/16/2016	
Date/Time CV Reported Tue, 08/19/2014 7:08 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 08/18/2014 7:08 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Alex Baran	00000	934451	041 PCT
2. POM Ahsan Zafar	03773	949822	041 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brendan Grace	31003	952806	041 PCT
2. POM Scott Berger	10210	948659	041 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Alex Baran	Abuse: Lt. Alex Baran stopped § 87(2)(b)	§ 87(2)(b)
B.LT Alex Baran	Abuse: Lt. Alex Baran searched the car in which § 87(2)(b) was an occupant.	§ 87(2)(b)
C.POM Ahsan Zafar	Abuse: PO Ahsan Zafar frisked § 87(2)(b)	§ 87(2)(b)
D.POM Ahsan Zafar	Abuse: PO Ahsan Zafar searched § 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On August 16, 2014, at approximately 5:14 p.m., Lt. Alex Baran and PO Brendan Grace stopped § 87(2)(b) as he stood outside his vehicle in front of § 87(2)(b) in the Bronx. His identification and vehicle's documents were requested (**Allegation A**). The officers then directed him towards the rear of the vehicle. Approximately 10 minutes later, PO Ahsan Zafar and PO Scott Berger arrived on the scene. Lt. Baran and PO Grace entered § 87(2)(b)'s vehicle and searched inside while PO Zafar and PO Berger stood with § 87(2)(b) (**Allegation B**). At this point, PO Zafar frisked § 87(2)(b) (**Allegation C**). PO Zafar then entered § 87(2)(b)'s pant pockets, removed his wallet, and instructed § 87(2)(b) to remove his sneakers (**Allegation D**) (encl. 8D-8E and 8N), § 87(2)(g), § 87(4-b)

§ 87(2)(b)

This case was reassigned to Inv. Patrick Yu from Inv. Laura Kastner on January 14, 2015 (encl. 23H).

Mediation, Civil and Criminal Histories

- This case is unsuitable for mediation because § 87(2)(b) mentioned that he may file a lawsuit in regards. A Notice of Claim inquiry regarding this incident was sent on March 5, 2015, pending results (encl. 22A). § 87(2)(b), § 87(2)(a) 160.50
- § 87(2)(b)
- § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 6A).
- Lt. Baran has been a member of the NYPD for 10 years and has had two prior CCRB allegations. § 87(2)(g)
- PO Zafar has been a member of the NYPD for four years and has had 11 prior CCRB allegations and two recent CCRB allegations. PO Zafar had one exonerated frisk allegation, one substantiated (instructions) frisk allegation, and one unsubstantiated search allegation (encl. 5A).

Witnesses

- § 87(2)(b)
- § 87(2)(b) a friend of § 87(2)(b) was across the street during the incident. He provided an in person statement at the CCRB on September 15, 2014 (encl. 9A and 9E-9F).

Findings and Recommendations

Allegations Not Pleaded

- **Force:** Even though § 87(2)(b) mentioned that an officer shoved § 87(2)(b) against the car, § 87(2)(b) stated that none of the officers pushed him at any point and he sustained no injuries.
- **Property Damage:** § 87(2)(b) was informed that the CCRB does not provide monetary compensation. § 87(2)(b) was then directed to the NYC Comptroller's Office.
- **Search:** Approximately a month after § 87(2)(b) provided his testimony, § 87(2)(b) called the CCRB and alleged that PO Grace removed his keys attached to a keychain that was hanging on the outside of his jean's belt loop area and placed it on the roof of § 87(2)(b)

§ 87(2)(b)'s vehicle (encl. 8N). The aforementioned action did not rise to the level of a search.

Explanation of Subject Officer Identification-

- Lt. Baran stated that PO Zafar and PO Berger from the Robbery unit arrived on the scene and stayed for a short period of time during the incident (encl. 10E-10G). PO Zafar closely matched § 87(2)(b)'s description of the third officer that stayed on the scene.
- Since the complainant/victim, § 87(2)(b) alleged that only PO Zafar frisked him, the frisk is only pleaded to PO Zafar. § 87(2)(b) stated that Lt. Baran gestured for PO Zafar to conduct the frisk, but § 87(2)(b) made no mention of such gesture.
- § 87(2)(b) stated that all three of the officers searched § 87(2)(b)'s vehicle, but § 87(2)(b) only saw Lt. Baran and PO Grace searching the vehicle while PO Zafar stood by § 87(2)(b). The officers' testimony also corroborated this. As the only higher ranking officer on the scene, this allegation is only pleaded to Lt. Baran.

Allegation A: Abuse of Authority- Lt. Alex Baran stopped § 87(2)(b)

It is undisputed that Lt. Baran stopped § 87(2)(b)

§ 87(2)(b) was outside of his parked vehicle in front of § 87(2)(b), in the Bronx when Lt. Baran and PO Grace approached him and requested for his vehicle's documents (encl. 8D-8E). Lt. Baran and PO Grace responded to a radio run of a possible narcotics sale at the location. The Event # D14081616655 and 911 Call CD, confirmed that an anonymous complaint called and provided a description of the alleged individual selling narcotics out of his blue vehicle (encl. 14A and 15A). Lt. Baran and PO Grace acknowledged that they stopped § 87(2)(b) in regards.

An officer has reasonable suspicion to stop and detain a person based upon the general description of the perpetrator, the person's close proximity to the site of the crime, and the short passage of time between the crime and the observation of the defendant, **People v. Bennett 37 A.D. 3d 483 (1976)** (encl. 1A-1B).

§ 87(2)(b)'s physical description and the description of his vehicle was a close match to the description of the perpetrator that was relayed over the radio. Furthermore, § 87(2)(b) was at the exact location of the crime. Lt. Baran and PO Grace arrived at the location and observed § 87(2)(b) within five minutes of the radio call (encl. 10E-10G and 11E-11F). § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

Allegation B: Abuse of authority- Lt. Alex Baran searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(b) stated that Lt. Baran and PO Grace requested for his driver license and vehicle documents. § 87(2)(b) retrieved the documents from a compartment near the rear view mirror area. § 87(2)(b) only provided a learner's permit as identification. Lt. Baran then asked § 87(2)(b) why the vehicle did not have a license plate or insurance. § 87(2)(b) informed the

officers that it was a newly purchased vehicle. § 87(2)(b) was then asked to exit his vehicle. Once PO Zafar arrived on the scene, Lt. Baran and PO Grace entered and searched § 87(2)(b)'s vehicle. § 87(2)(b) observed PO Grace and Lt. Baran through the rear window. Additionally, § 87(2)(b) saw PO Grace opening and searching various closed compartments within his vehicle (encl.).

Lt. Baran and PO Grace's testimony were generally consistent on the point that they believed the vehicle may have been stolen due to the circumstances at the time. A MISD check confirmed that the documents provided did not match § 87(2)(b)'s vehicle. Lt. Baran conducted a thorough check of the vehicle's VIN numbers that are etched on various panels of the vehicle. Lt. Baran searched multiple areas within the vehicle, including the trunk, for the aforementioned VIN numbers (encl. 10E-10G). PO Grace stated that he may have also participated in the search by checking the VIN numbers on the door jams (encl. 11E-11F). Lt. Baran denied ever going inside any closed compartments without permission. Lt. Baran stated that an officer asked § 87(2)(b) if they could retrieve his documents from the glove compartment and § 87(2)(b) gave the officers consent to retrieve it. PO Grace corroborated the aforementioned statement. However, it was unclear which officer retrieved the documents. Nothing was removed from inside of § 87(2)(b)'s vehicle.

When an officer has reasonable suspicion that a vehicle is stolen, the officers may search the vehicle for the purpose of determining the legitimacy of the vehicle's VIN, **People v. Ahing 125 A.D. 2d 476** (1986) (encl. 2A-2B).

Lt. Baran and PO Grace approached § 87(2)(b) on the basis of a confirmed radio run in which § 87(2)(b) fit the description. Because § 87(2)(b) did not provide the correct documentation for the vehicle and he did not produce a valid driver license, this raised Lt. Baran's suspicion that the car may have been stolen. Moreover, the MISD checks conducted did not indicate § 87(2)(b)'s ownership of the vehicle. Upon inspection of the VIN number on the dashboard of the vehicle, Lt. Baran observed that one of the rivets on the VIN plate seemed to be altered. At that point, Lt. Baran conducted a search solely for the purpose of identifying the confidential VINs throughout the vehicle. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C: Abuse of Authority- PO Ahsan Zafar frisked § 87(2)(b)

Allegation D: Abuse of Authority- PO Ahsan Zafar searched § 87(2)(b)

In § 87(2)(b)'s testimony, while he was standing in the rear of the vehicle with PO Zafar, § 87(2)(b) alleged that PO Zafar frisked and searched him. § 87(2)(b) stated that the frisk and searched lasted approximately 25 minutes. The frisk included PO Zafar patting § 87(2)(b) from the waist down, then going inside each of his pockets, lifting up his pants, grabbing the bottom of his pants, lifting up the bottom of his pants, and asking him to remove his sneakers (encl. 8N). § 87(2)(b) corroborated with the aforementioned frisk, stating that PO Zafar patted § 87(2)(b) down from head-to-toe. However, he did not see PO Zafar go inside any of § 87(2)(b)'s pockets (encl. 9E-9F).

According to Lt. Baran's and PO Grace's testimonies, § 87(2)(b) was asked to exit his vehicle because § 87(2)(b) could not provide matching documents for the vehicle and only had a learner's permit. At that point the officers suspected that the vehicle may have been stolen. PO Zafar and PO Berger approached the scene to provide assistance to the lieutenant. PO Zafar did not have prior knowledge of what occurred or why § 87(2)(b) was stopped. Lt. Baran was unaware if any officer frisked or searched § 87(2)(b) because he was focused on the vehicle. PO Grace did not recall if any other officer assisted during the incident. Lt. Baran, PO Grace, and PO Zafar corroborated on the point that no bulges were ever observed on § 87(2)(b). PO Zafar denied frisking § 87(2)(b) going in any of his pockets, or searching any part of § 87(2)(b). PO Zafar denied taking any police action or interacting with § 87(2)(b). PO Zafar only stood beside § 87(2)(b) as Lt. Baran and PO Grace were in the police vehicle.

§ 87(2)(b), § 87(2)(g)
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§ 87(2)(g), § 87(4-b)
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Team:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date